

EXHIBIT 15
Excerpts from
Trevor Alsup
Deposition, Vol.
III, 7/1/19

Detective Trevor Alsup - Vol. II - July 1, 2019
* * * Videotaped Deposition * * *

Page 183

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3

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5 TRINITA FARMER, individually,)
6 Plaintiff,)
7 vs.) Case No.
8 LAS VEGAS METROPOLITAN POLICE) 2:18-cv-00860-GMN-VCF
9 DEPARTMENT, a subdivision of)
10 the STATE OF NEVADA; KENNETH)
11 LOPERA, individually; TRAVIS)
12 CRUMRINE, individually;)
13 MICHAEL TRAN, individually;)
14 MICHAEL FLORES, individually,)
15 Defendants.)
16 -----)

**CONDENSED
TRANSCRIPT**

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16 VIDEOTAPED DEPOSITION OF DETECTIVE TREVER ALSUP

17 VOLUME II

18 Taken on Monday, July 1, 2019

19 At 11:04 a.m.

20 3005 West Horizon Ridge Parkway

21 Suite 241

22 Henderson, Nevada

23

24

25 Reported by: Cynthia K. DuRivage, CCR No. 451

Detective Trever Alsup - Vol. II - July 1, 2019
*** * * Videotaped Deposition * * ***

7 (Pages 204 to 207)

Page 204	Page 206
<p>1 third trigger pull.</p> <p>2 Q. Were the first four trigger pulls 3 successful? Strike that.</p> <p>4 Did the first four trigger pulls connect?</p> <p>5 MR. McNUTT: Objection, form.</p> <p>6 THE WITNESS: By the download of the TASER 7 that would we got, you could tell that a circuit was 8 completed on several of the TASERS or of the 9 utilizations of the TASER. However, several were 10 intermittent.</p> <p>11 But then, comparing that to body cam 12 footage, you could tell that, at certain points, 13 there was neuromuscular incapacitation.</p> <p>14 BY MR. LAGOMARSINO:</p> <p>15 Q. What is neuromuscular incapacitation?</p> <p>16 A. It's when the circuit through the TASER 17 connects or travels through the body, and it just 18 basically, the easiest way to explain it is it locks 19 the body up to where you're not able to control your 20 muscle actions.</p> <p>21 Q. How long did that last with Tashii Farmer 22 each time NMI was achieved?</p> <p>23 A. Well, a cycle on the TASER when you pull it 24 is five seconds. So for me to be able to say that it 25 lasted for the full five seconds, according to a</p>	<p>1 Q. Did you write: 2 "LVMPD policy states, after the 3 initial five-second cycle, the 4 officer will evaluate the need to 5 apply an additional five-second 6 cycle after providing the subject a 7 reasonable opportunity to comply"?</p> <p>8 A. Yes.</p> <p>9 Q. "Policy further states, after 10 The subject has been exposed to 11 three cycles, the ECD shall be 12 deemed ineffective and another force 13 option will be considered." 14 Did you write that?</p> <p>15 A. Yes.</p> <p>16 Q. So according to LVMPD policy, the officer 17 needs time to evaluate whether to apply an additional 18 five-second cycle, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Other than the highlights that are present 21 on this exhibit, does this exhibit appear to be a 22 true and accurate copy of your report?</p> <p>23 A. Yes.</p> <p>24 MR. ANDERSON: In addition to the 25 highlights, there's some handwritten stuff. You</p>
<p style="text-align: center;">Page 205</p> <p>1 couple graphs, I think that happened twice. But 2 there are other ones that showed that it was 3 intermittent.</p> <p>4 Q. In your police report, did you address your 5 belief as to whether Officer Lopera gave Farmer a 6 reasonable amount of time to comply with commands 7 before cycling the ECD again?</p> <p>8 A. Yes.</p> <p>9 Q. And what was your finding?</p> <p>10 A. That he did not.</p> <p>11 Q. Was it your belief that the verbal commands 12 that Officer Lopera gave Farmer, such as "Don't move" 13 and "Get on your stomach" were contradictory?</p> <p>14 A. Yes.</p> <p>15 Q. Did you believe it was unreasonable for 16 Officer Lopera to expect compliance when he told 17 Farmer to, "Don't move" but also to get on his 18 stomach while cycling through the ECD?</p> <p>19 A. Yes.</p> <p>20 MR. McNUTT: Objection, form.</p> <p>21 BY MR. LAGOMARSINO:</p> <p>22 Q. Going to page 7 of your report. 23 On the second highlighted paragraph -- do 24 you have a highlighted copy there?</p> <p>25 A. I do.</p>	<p style="text-align: center;">Page 207</p> <p>1 included that as not part of his report too, right? 2 BY MR. LAGOMARSINO:</p> <p>3 Q. Okay. I do note there's a handwritten copy 4 on my copy -- a handwritten note on my copy. That is 5 not yours?</p> <p>6 A. That is not mine.</p> <p>7 Q. All right. Under Metro policy, when is an 8 officer allowed to deliver strikes to an individual's 9 head?</p> <p>10 A. Basically, the easiest way to explain it is 11 when the officer is in fear of harm to himself.</p> <p>12 Q. You wrote on page 7 that: 13 "Farmer did not appear to be 14 displaying aggressive resistance." 15 At any time during your evaluation of this 16 incident, did Farmer appear to be displaying 17 aggressive resistance?</p> <p>18 A. Not in my opinion.</p> <p>19 Q. Did you assess that, basically, Farmer was 20 trying to protect his face from being hit when 21 Officer Lopera began to strike him?</p> <p>22 MR. McNUTT: Objection, form.</p> <p>23 THE WITNESS: I would say that's fair.</p> <p>24 BY MR. LAGOMARSINO:</p> <p>25 Q. And did you believe it was unreasonable for</p>

Detective Trever Alsup - Vol. II - July 1, 2019
*** * * Videotaped Deposition * * ***

8 (Pages 208 to 211)

Page 208	Page 210
<p>1 Officer Lopera to strike Mr. Farmer 10 to 12 times?</p> <p>2 A. Yes.</p> <p>3 MR. McNUTT: Objection, form.</p> <p>4 BY MR. LAGOMARSINO:</p> <p>5 Q. Going to page 8, you wrote: 6 "Due to the fact that 7 Officer Lopera, who was on duty and 8 acting in the official capacity of a 9 police officer, attempted to detain 10 Farmer inside the Venetian Hotel 11 without sufficient legal authority 12 for the detention." 13 What did you mean by saying that?</p> <p>14 A. Basically that he was on duty, he was 15 performing his job as a police officer, and that the 16 initial encounter didn't rise to the level of 17 reasonable suspicion or probable cause to make a stop 18 or the arrest.</p> <p>19 Q. Irrespective of whether the hold that 20 Lopera applied, it was a LVNR or a rear naked choke, 21 do you believe that either one would have been 22 excessive in this circumstance?</p> <p>23 A. I do.</p> <p>24 MR. McNUTT: Objection, form.</p> <p>25</p>	<p>1 to hit the officer or kick the officer, use a weapon 2 against the officer, that demonstrates the intent to 3 harm the officer.</p> <p>4 MR. LAGOMARSINO: Dan, did you introduce 5 the FIT report last time?</p> <p>6 MR. McNUTT: No.</p> <p>7 MR. LAGOMARSINO: 11. 8 (Exhibit 11 was marked for 9 identification by the reporter.)</p> <p>10 BY MR. LAGOMARSINO:</p> <p>11 Q. Did you author the FIT report in this 12 matter?</p> <p>13 A. I did.</p> <p>14 Q. Other than some redaction that's in there, 15 can you take a look at this and tell us if this 16 appears to be a true and accurate copy of the FIT 17 report that you authored?</p> <p>18 A. It does.</p> <p>19 Q. Now, obviously, you authored that pursuant 20 to your job duties?</p> <p>21 A. Correct.</p> <p>22 Q. All right. Can you please turn to page 33. 23 Does the section in the first half of the 24 page accurately describe what passive resistance is 25 as opposed to active and aggressive resistance?</p>
Page 209	Page 211
<p>1 BY MR. LAGOMARSINO:</p> <p>2 Q. Did you see any justification for applying 3 a lateral vascular neck restraint?</p> <p>4 A. No.</p> <p>5 Q. Or a rear naked choke?</p> <p>6 A. No.</p> <p>7 Q. Now, just to clarify a little bit, if 8 Lopera believed that he was in fear for his life, 9 would he have been justified in using -- strike that.</p> <p>10 If Lopera was in fear for his life, would 11 he have been justified in using a rear naked choke?</p> <p>12 MR. ANDERSON: Objection, form.</p> <p>13 MR. McNUTT: Objection.</p> <p>14 THE WITNESS: Not according to department 15 policy. Per department policy, the only neck 16 restraint that's allowed is the LVNR.</p> <p>17 BY MR. LAGOMARSINO:</p> <p>18 Q. How does active resistance differ from 19 passive resistance?</p> <p>20 A. An attempt to harm the officer.</p> <p>21 Q. Did you see any intent on the video, or any 22 video, to harm the officer on Farmer's part?</p> <p>23 A. I did not.</p> <p>24 Q. And how do people demonstrate intent?</p> <p>25 A. Well, if you are throwing strikes or trying</p>	<p>1 A. According to our policy at the time, yes.</p> <p>2 Q. Has it since changed?</p> <p>3 A. Use of force policy has changed.</p> <p>4 Q. Has it changed with respect to passive, 5 active, and aggressive resistance?</p> <p>6 A. I do not believe so.</p> <p>7 Q. Now, in item No. 2, you wrote: 8 "During the subsequent ACD cycles, 9 Farmer was displaying passive and 10 active resistance. Prior to and 11 during the repeated strikes to 12 Farmer's head, Farmer was displaying 13 passive and active resistance."</p> <p>14 MR. McNUTT: Andre, where are you reading 15 that from?</p> <p>16 MR. LAGOMARSINO: Sorry, No. 2.</p> <p>17 MR. McNUTT: But you switched pages?</p> <p>18 MR. LAGOMARSINO: No. Page 33.</p> <p>19 MR. McNUTT: Oh, 2 at the bottom, sorry.</p> <p>20 Gotcha.</p> <p>21 BY MR. LAGOMARSINO:</p> <p>22 Q. All right. We'll start the question again. 23 So under No. 2 on page 33, did you write 24 that: 25 "During the subsequent ACD cycles,</p>

Detective Trever Alsup - Vol. II - July 1, 2019

* * * Videotaped Deposition * * *

9 (Pages 212 to 215)

Page 212	Page 214
<p>1 Farmer was displaying passive and 2 active resistance?" 3 A. Yes. 4 Q. How was he displaying passive and active 5 resistance? 6 A. He was actively trying to keep 7 Officer Lopera from taking him into custody. 8 Q. By doing what? 9 A. Either put his hands underneath him, 10 running away, actions where there didn't appear to be 11 a display to intent to harm the officer but prevent 12 being taken into custody. 13 Q. Would trying to remove the probes be active 14 resistance? 15 A. Yes. 16 Q. And would you defer to the video -- strike 17 that. 18 After the first TASER strike, did Farmer 19 attempt to run away? 20 A. After the first one? 21 Q. Right. 22 A. He was on the ground and sat up. 23 Q. So he sat up, that's the -- 24 A. Well, without watching the video again, I 25 know that after the first one, he was on the ground.</p>	<p>1 time pat-downs? 2 MR. ANDERSON: Objection, form. 3 THE WITNESS: Yes. 4 MR. ANDERSON: Go ahead. 5 BY MR. LAGOMARSINO: 6 Q. If an officer believes that a subject is 7 resisting attempts to handcuff him, what options does 8 the officer have to use in terms of force to attempt 9 to handcuff him? 10 A. Well, basically, at that point, any of the 11 tools that are available on the officer's belt. He 12 could use the baton to assist in handcuffing. 13 The pepper spray. It just kind of depends 14 on how things -- in the officer's mind how things are 15 escalating and where he's at. 16 Q. What are weaponless defense techniques? 17 A. Oh, there's arm bars, there's distract 18 methods. There's a lot. 19 Q. Wrist locks? 20 A. I'm sorry? 21 Q. Wrist locks? 22 A. Correct. 23 Q. Is one method to disengage by pushing the 24 suspect forward? 25 A. Yes.</p>
<p>1 I believe that's when he tried to remove the probe 2 and I think put his shoe back on. 3 I don't remember if he actually made it to 4 a full sitting position or not. 5 Q. After the very first TASER strike, did 6 Tashii go to the ground? 7 A. Yes. 8 Q. Did he ever get up off the ground again? 9 MR. McNUTT: Objection, form. 10 THE WITNESS: Standing to his feet? 11 BY MR. LAGOMARSINO: 12 Q. Correct. 13 A. No. 14 MR. LAGOMARSINO: 12. 15 (Exhibit 12 was marked for 16 identification by the reporter.) 17 BY MR. LAGOMARSINO: 18 Q. I've handed you what has been marked as 19 Exhibit 12. Go ahead and flip through that, and let 20 us know if you've ever seen this before. 21 A. I have seen it before. It's not a document 22 that I've read cover to cover or in its entirety. 23 Q. Okay. At least in terms of having seen it 24 before, does it appear to be a true and accurate copy 25 of the BDT01 introduction to DTs, basic ready, lag</p>	<p>1 Q. Is another method to step back and create 2 distance? 3 A. Yes. 4 Q. What is objectively reasonable force? 5 A. What another officer -- basically, the 6 simple term is what another officer would believe to 7 be reasonable. 8 Q. Okay. And what is subject of reasonable 9 force? 10 A. I'm sorry? 11 Q. What is subject of reasonable force? 12 MR. ANDERSON: Objection, form. 13 THE WITNESS: I'm not exactly -- it's not a 14 term that I've ever heard. 15 BY MR. LAGOMARSINO: 16 Q. Okay. Do officers have to receive training 17 on resistance handcuffing? 18 A. You mean handcuffing when a subject is 19 resisting them? 20 Q. Yes. 21 A. Yes. 22 Q. And do officers have to take tests in that 23 regard? 24 A. We have tests on defensive tactics. Without knowing the exact training manual, how it's</p>

Detective Trevor Alsup - Vol. II - July 1, 2019
*** * * Videotaped Deposition * * ***

10 (Pages 216 to 219)

<p style="text-align: center;">Page 216</p> <p>1 written, I would say that it's covered in DTs. I 2 don't know if it's something that is tested on. 3 Q. Is it pass-fail or an honor system, or how 4 does it work? 5 A. You conduct your quarterly DT training with 6 an instructor, and he monitors the progress 7 throughout the class. 8 Q. Is there an actual test? 9 A. Like a written test? 10 Q. Right. 11 A. We have tests on the use of force policy. 12 Q. How about for DTs? 13 A. That would be incorporated into the use of 14 force policy. 15 Q. What are -- strikes that. 16 How would you define the term 17 "de-escalation techniques"? 18 A. My own personal term would be it's to try 19 to find a way to slow the momentum, calm things down, 20 and find a peaceful resolution to a problem. 21 Q. Did you observe Officer Lopera perform any 22 de-escalation techniques? 23 A. I honestly can't answer that because he did 24 not give us a statement. 25 Uses of force can be a form of</p>	<p style="text-align: center;">Page 218</p> <p>1 A. I'm sorry? 2 Q. You've previously answered the question as 3 to whether you believe that Farmer was attempting to 4 carjack? 5 A. Right. 6 Q. And in this case, do you believe that 7 Farmer was attempting to carjack the vehicle? 8 A. I do not. 9 Q. Did Jonathan Pearce, the driver, believe 10 that he was trying to carjack the vehicle? 11 A. Not in his statement. 12 Q. Did Officer Colon -- am I pronouncing that 13 correctly? 14 A. Colon. 15 Q. Colon. Did he assist you in this 16 investigation? 17 A. He did. 18 Q. What was his role? 19 A. He basically was with me for the 20 documentation of the scene and performing any tasks 21 that I might need to be done. 22 Q. How long have you worked with 23 Officer Colon -- or, strike that -- Detective Colon? 24 A. Since approximately 2006. 25 Q. What is his first name?</p>
<p style="text-align: center;">Page 217</p> <p>1 de-escalation, but without him giving me a statement, 2 I don't know what his opinion on that was. 3 Q. So you're saying in terms of his intent, 4 it's hard to discern his intent if he hasn't spoken 5 to you; is that correct? 6 A. Correct. 7 Q. In terms of his actions, did you observe 8 de-escalation techniques? 9 A. Not in my opinion. 10 Q. Now, in this investigation -- 11 A. Let me -- can I -- 12 Q. Sure. 13 A. -- clarify one thing real quick. 14 Q. Sure. 15 A. In the very limited walk-through that he 16 did give us, he stated that he thought that 17 Mr. Lopera was attempting to carjack the vehicle, at 18 which point he deployed his TASER. 19 At that point, you could argue that that 20 was a form of de-escalation. 21 Again, without a statement and what was 22 going through his mind, I have no idea. 23 Q. You have previously testified whether you 24 believed that Farmer was attempting to carjack, 25 correct?</p>	<p style="text-align: center;">Page 219</p> <p>1 A. Marc, with a C. 2 Q. How many investigators did you have working 3 with you regarding this incident? Let me rephrase 4 the question. 5 Oh, go ahead. Strike that. 6 Let me restate the question. 7 How many investigators did you have working 8 with you on this investigation? 9 A. For the Force Investigation Team? 10 Q. Yes, sir. 11 A. Five. And a supervisor. 12 Q. Is the supervisor the sergeant? 13 A. Yes. 14 Q. Is the case agent the same as the primary 15 investigator? 16 A. Yes. 17 Q. And that was you? 18 A. Yes. 19 Q. And you were assigned to that position? 20 A. Yes. 21 Q. Did Sergeant McDonald supervise everything 22 that you did? 23 A. He was aware of what was going on 24 throughout the investigation. To say that he was 25 standing over me the whole time, no.</p>

Detective Trevor Alsup - Vol. II - July 1, 2019
*** * * Videotaped Deposition * * ***

15 (Pages 236 to 239)

Page 236	Page 238
<p>1 just stay in the photos, it says: 2 "On the proximal right cheek 3 junction of the lower eyelid are 4 three generally horizontal 5 superficial abrasions and 6 lacerations. These are no more than 7 8 millimeters each." 8 Are you able to circle those? 9 A. (The witness complied.) 10 MR. McNUTT: Detective Alsup, if you're 11 able to circle, would you identify -- I mean, I know 12 you just did, so would you identify the page that 13 you're marking. 14 MR. LAGOMARSINO: Or just write your 15 initials, I guess, because I don't think there's a 16 Bates number on there, but for the record, I guess 17 describe what's in the picture is what you're saying? 18 MR. McNUTT: Well, give us some 19 identification, I mean, the number of pictures you're 20 in or something because some of these are a little 21 similar. 22 MR. LAGOMARSINO: Okay. I know after the 23 fact, we'll be able to look at the exhibit but just 24 for Mr. -- 25 MR. McNUTT: So there's no Bates number</p>	<p>1 laceration." 2 Are you able to discern that? 3 MR. McNUTT: Objection, form. 4 THE WITNESS: This pen isn't working. 5 BY MR. LAGOMARSINO: 6 Q. Okay. And then, there are some other 7 injuries. The remaining are the section that are 8 indicated. 9 Is it your understanding and opinion that 10 the injuries noted in the head and neck section are 11 as a result of the alteration with Ken Lopera? 12 MR. McNUTT: Objection, form. 13 MR. ANDERSON: Join. 14 THE WITNESS: I believe so. 15 BY MR. LAGOMARSINO: 16 Q. All right. Now going to page 1414. 17 I'm going to be referring to some of the 18 medical illustrations as well. It says: 19 "Layer-wise, in --" I don't know 20 how to pronounce this word "-- situ 21 dissection of the neck reveals 22 hemorrhage as follows. Superficial 23 subcutaneous within the right and 24 left lower neck." 25 And then, it states:</p>
<p>1 on -- 2 MR. LAGOMARSINO: The photos. 3 MR. McNUTT: Okay. 4 THE WITNESS: Would it be easier to go 1, 5 2, 3, 4, as according to how she has them in her 6 report or? 7 MR. McNUTT: Whatever. I guess we'll get 8 that copy afterwards. 9 BY MR. LAGOMARSINO: 10 Q. Did I lose you? 11 A. No, I'm going... 12 Q. Okay. Have you circled those? 13 A. Um-hum. 14 Q. It states: 15 "There appears to be a spectacle 16 hemorrhage on the right lower 17 eyelid, though this is difficult to 18 discern incident to dark 19 pigmentation of the skin." 20 Are you able to circle that? 21 A. No. 22 Q. "On the left upper cheek at its 23 Junction with the left lower eyelid 24 is an obliquely oriented 25 1 centimeter superficial abrasion</p>	<p>1 "The right mid sternomastoid 2 muscle with anterior hemorrhage." 3 What does anterior mean, front or back? 4 A. Behind. 5 Q. Behind? 6 A. Um-hum. 7 Q. Are you sure, or is posterior better? 8 A. If I remember correctly. 9 Q. Okay. 10 A. It's 26 years ago, so... 11 Q. Do you feel comfortable going through these 12 medical illustrations, or would you leave that to the 13 doctors? 14 A. I would leave that to the doctors. 15 Q. All right. Now, we've heard testimony 16 about methamphetamine being in Tashii Farmer's 17 system. 18 Is it your understanding based on the 19 toxicology reports that there was methamphetamine in 20 Tashii Farmer's system? 21 A. Based on the toxicology reports, yes. 22 Q. Now, having a drug in one's system is 23 different than being -- or, strike that -- can be 24 different than being under the influence, correct? 25 MR. McNUTT: Objection, form.</p>

Detective Trevor Alsup - Vol. II - July 1, 2019
*** * * Videotaped Deposition * * ***

16 (Pages 240 to 243)

Page 240	Page 242
<p>1 THE WITNESS: Correct. 2 BY MR. LAGOMARSINO: 3 Q. Is there anything in the police report that 4 you've authored, either the police report or the FIT 5 report, that is of the opinion that Tashii Farmer was 6 under the influence? 7 A. No. 8 Q. Okay. Going to the next page, so it would 9 be after the autopsy report that's typed but the 10 autopsy report form here. 11 MR. McNUTT: So Bates? 12 MR. LAGOMARSINO: Thank you. LVMPD 1419. 13 BY MR. LAGOMARSINO: 14 Q. In terms of clothing, it says: 15 "He was wrapped in a white sheet." 16 Was he wrapped in a white sheet, to your 17 recollection? 18 A. That was, he was wrapped in a sheet for 19 transport to the Coroner's office. 20 Q. Okay. Did you see him in the sheet? 21 A. Yes. 22 Q. It says: 23 "Hospital blankets and a blue 24 fitted sheet." 25 Did you also see that?</p>	<p>1 Did you see that? 2 A. Yes. 3 Q. It also states, going in specific 4 photography, it says, "injuries, x-rays, personal 5 property," correct? Is that correct? 6 A. Yes. 7 Q. It says: 8 "He had a TASER probe lodged in 9 the back of his upper back and an 10 apparent probe-like puncture in his 11 lower back slightly left of the 12 midline." 13 A. Correct. 14 Q. So is it your understanding that -- 15 MR. McNUTT: Hang on. I've got to ask, 16 Craig's objection. 17 Are you answering correct that that's what 18 this says, or are you answering correct, you remember 19 these things? 20 THE WITNESS: That that's what this is 21 saying. 22 MR. McNUTT: Okay. 23 BY MR. LAGOMARSINO: 24 Q. Based on what this states here, is it your 25 understanding that the puncture in the lower back</p>
<p>1 A. Yes. 2 Q. "He was wearing white socks and 3 Black shoes." 4 Did you see that? 5 A. Yes. 6 Q. "He was lying atop a black short 7 Sleeve T-shirt, black boxer briefs, 8 and a pair of blue and camouflage 9 patch jeans." 10 Did you see that? 11 A. Yes. 12 Q. "His hands were bagged with 13 Evidence preservation bags." 14 What does that mean? 15 A. They are bags that cover the hands and then 16 are tied around the wrist to preserve any evidence, 17 trace evidence, which could be fingernail scrapings. 18 Q. It says: 19 "A TASER probe was stuck in the 20 back of the waistband of the 21 decedent's boxer briefs." 22 Did you see that? 23 A. Yes. 24 Q. "A piece of TASER wire was amongst 25 His clothing."</p>	<p>Page 241</p> <p>1 would be from the probe that was stuck in the back of 2 the waistband of the decedent's boxer briefs? 3 MR. McNUTT: Objection, form. 4 MR. ANDERSON: Objection, form. 5 THE WITNESS: Yes. 6 BY MR. LAGOMARSINO: 7 Q. How many probes does that particular TASER 8 have? 9 A. Two. 10 Q. And one was still stuck in his back, 11 correct? 12 A. Correct. 13 Q. It says here -- I'm going to ask you what 14 it says, but then, I'm going to ask you if you 15 remember it. It says: 16 "He had lacerations to his 17 exterior upper lip, multiple 18 lacerations and swelling around his 19 right eye, a laceration on the 20 bridge of his nose, a laceration 21 under his left eye and swelling 22 around his left eye and an abrasion 23 under his right ear." 24 Do you recall those injuries? 25 A. I do remember multiple lacerations and</p>

Detective Trever Alsup - Vol. II - July 1, 2019
*** * * Videotaped Deposition * * ***

19 (Pages 252 to 255)

<p style="text-align: center;">Page 252</p> <p>1 BY MR. LAGOMARSINO: 2 Q. Do you have any evidence in your 3 investigation that would indicate that these injuries 4 described here are from anything other than the 5 altercation with Officer Lopera?</p> <p>6 MR. McNUTT: Objection, form. 7 THE WITNESS: I don't.</p> <p>8 BY MR. LAGOMARSINO: 9 Q. Going back to the scene for a moment, 10 Lopera did a walk-through with an attorney; is that 11 correct?</p> <p>12 A. That's correct. 13 Q. Was it John Aldrich? 14 A. Yes. 15 Q. And did Aldrich stop Lopera from continuing 16 to say what happened? 17 A. They came to a point where they said that 18 that was all that they would be talking about. 19 Q. And so, you were never able to get his 20 statement as to why he tased Tashii seven times? 21 MR. McNUTT: Objection, form. 22 THE WITNESS: Correct. 23 BY MR. LAGOMARSINO: 24 Q. And you were never able to get his 25 statement about why he struck him on the face or head</p>	<p style="text-align: center;">Page 254</p> <p>1 A. Correct. 2 Q. Do you have any evidence, to your 3 knowledge, that after Farmer started walking, 4 running, or jogging away from Lopera that Lopera told 5 him to stop? 6 Let me make it more specific as to time. 7 The body cam doesn't record sound for the 8 first around 30 seconds, correct? 9 A. Correct. 10 Q. So from the time that Lopera -- strike 11 that. 12 From the time that Farmer starts to walk 13 away or leave the area where Lopera is, for the next 14 15 or 20 or 30 seconds, do you have any evidence 15 affirmatively to demonstrate that Lopera told Farmer 16 to stop? 17 A. No. 18 Q. And unless a citizen is being detained or 19 arrested, that citizen is free to leave the presence 20 of an officer if they wish, correct? 21 A. Correct. 22 Q. Have you been trained on excessive force 23 under the Fourth Amendment? Strike that. 24 Have you been trained on what is excessive 25 force under the Fourth Amendment or what the standard</p>
<p style="text-align: center;">Page 253</p> <p>1 or upper body 10 to 12 times? 2 A. Correct. 3 MR. McNUTT: Objection, form. 4 BY MR. LAGOMARSINO: 5 Q. And you were never able to get his 6 statement about why he applied whatever neck hold or 7 neck restraint he applied? 8 A. Correct. 9 Q. In your report, did you conclude that if 10 Farmer had lived, he would not have been charged with 11 carjacking? 12 A. Correct. 13 Q. Did you watch a press briefing regarding 14 this incident given by McMehill? 15 A. Depending on which one it was, I could have 16 been present at that press conference. 17 Q. Have you ever heard anybody from Metro 18 saying that Farmer would not have been charged with a 19 crime? 20 A. Yes. 21 Q. Who did you hear say that? 22 A. I'm pretty sure I heard the undersheriff, 23 Kevin McMehill, say that. 24 Q. Now, it was Farmer that initiated the first 25 contact with Lopera and Lif, correct?</p>	<p style="text-align: center;">Page 255</p> <p>1 is? 2 A. To say that something is definitively 3 excessive force, it would depend a lot on the 4 circumstances, but trained as far in the -- where you 5 could get to excessive force, yes. 6 Q. Okay. You were asked by Sayre in your 7 deposition in the estate case certain questions about 8 the Fourth Amendment. 9 Do you recall? 10 A. Not specifically. 11 Q. Okay. Do you recall generally? 12 A. Yes. 13 Q. In your view, was the use of a lateral 14 vascular neck restraint or a rear naked choke 15 excessive force under the Fourteenth Amendment -- or, 16 under the Fourth Amendment? 17 MR. ANDERSON: Objection, form. 18 THE WITNESS: I believe so. 19 BY MR. LAGOMARSINO: 20 Q. Do you believe that the chokehold was 21 excessive force under the Fourth Amendment? 22 MR. ANDERSON: Objection, form. 23 THE WITNESS: I believe so. 24 MR. McNUTT: Join. 25</p>

Detective Trevor Alsup - Vol. II - July 1, 2019
*** * * Videotaped Deposition * * ***

22 (Pages 264 to 267)

	Page 264		Page 266
<p>1 A. Correct.</p> <p>2 Q. Do know the name of that security guard 3 offhand as you sit here?</p> <p>4 A. I'd have to look back through.</p> <p>5 Q. There were a few of them, correct?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So at 2:58 -- at 2:58, Lopera says, 8 "Stop, don't move," correct?</p> <p>9 A. Correct.</p> <p>10 Q. Then he says, "You're going to get tased," 11 correct?</p> <p>12 A. Correct.</p> <p>13 Q. And after that, he tases Tashii and then 14 yells, "TASER, TASER, TASER," correct?</p> <p>15 A. Correct.</p> <p>16 Q. And Tashii falls to the ground?</p> <p>17 A. Correct.</p> <p>18 Q. At 3:03, Tashii's both hands are up, 19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. And there appears to be a cellphone in his 22 hand?</p> <p>23 A. Correct.</p> <p>24 Q. So Lopera says, "Don't move," and Tashii 25 says, "Okay," correct?</p>	Page 265	<p>1 BY MR. LAGOMARSINO:</p> <p>2 Q. As we're going through this, if you see any 3 subtitles that you believe are inaccurate, please let 4 us know. Okay?</p> <p>5 A. (No audible response.)</p> <p>6 Q. At about just before 3:35, does Lopera 7 appear to use the TASER in stun mode, or do you know?</p> <p>8 A. At this point, I don't know. Watching this 9 camera, I don't know.</p> <p>10 Q. Okay. I'm just going to go back a little 11 bit to about 3:30. And it appears that Tashii 12 screams out in pain. I'm just trying to figure out 13 if you're able to discern from this camera what you 14 believe it is.</p> <p>15 Are you able to tell why Tashii Farmer is 16 screaming out?</p> <p>17 A. The way it sounds on the video to me is he 18 screamed out, and then, you can hear the TASER 19 cycling. So I'm not sure if the cycling started 20 before that or after.</p> <p>21 Q. Now we're at 4:05. Have you seen Lopera 22 deliver strikes to Tashii Farmer?</p> <p>23 A. It appears so, yes.</p> <p>24 Q. So Crumrine arrives at the scene first, 25 correct?</p>	Page 267
<p>1 A. Correct.</p> <p>2 Q. He says, "Don't move," and Tashii says 3 "Okay" again, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And then, we'll play it, but Lopera says, 6 "Stop right there," and is it your understanding that 7 he was talking to the driver of the truck, Pearce?</p> <p>8 A. Correct.</p> <p>9 Q. So just before Lopera says, "Stop right 10 there, get on your stomach," Farmer appears to be 11 trying to get something out of his shoe, correct?</p> <p>12 A. Umm --</p> <p>13 Q. Or, strike that. What does Farmer appear 14 to be doing?</p> <p>15 A. The way that I interpreted it was it had 16 slipped off his heel, and he was putting it back on.</p> <p>17 Q. At about 3:10, Lopera appears to achieve 18 NMI; is that correct?</p> <p>19 A. Correct.</p> <p>20 MR. McNUTT: Objection, form.</p> <p>21 BY MR. LAGOMARSINO:</p> <p>22 Q. And do you hear Tashii apparently screaming 23 in pain?</p> <p>24 A. Yes.</p> <p>25 MR. McNUTT: Objection, form.</p>	Page 265	<p>1 A. Correct.</p> <p>2 Q. The question I'm going to ask you is: Does 3 it appear, based on your review of the video that 4 Lopera goes into a chokehold in front of Crumrine, 5 correct?</p> <p>6 MR. ANDERSON: Objection, form.</p> <p>7 BY MR. LAGOMARSINO:</p> <p>8 Q. I'll be asking that question. 9 So going to 4:11.</p> <p>10 So we've paused at 4:22. Does it appear 11 that Lopera goes into the chokehold or neck restraint 12 just as Crumrine arrives?</p> <p>13 A. Yes.</p> <p>14 Q. Crumrine told Farmer to get his hands 15 behind his back, correct?</p> <p>16 A. Correct.</p> <p>17 Q. Or get his fucking hands behind his back is 18 what he said, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Based on your assessment, was it hard for 21 Farmer to get his hands behind his back because 22 Lopera was on his back?</p> <p>23 MR. McNUTT: Objection, form.</p> <p>24 THE WITNESS: It probably would have been.</p>	Page 266

Detective Trever Alsup - Vol. II - July 1, 2019
*** * * Videotaped Deposition * * ***

24 (Pages 272 to 275)

Page 272	Page 274
<p>1 A. It does not appear. 2 Q. Later on his body cam, Lopera says, "I 3 choked him out," correct? 4 A. Correct. 5 Q. Does it have any significance to you in 6 your investigation? 7 A. It's just not a term that we use. 8 Q. What term would you use if you were going 9 to put somebody in neck restraint, a proper neck 10 restraint? 11 A. You would say that you applied the LVNR or 12 make reference to the LVNR. 13 Q. Does choking somebody out have a legitimate 14 law enforcement objective? 15 MR. McNUTT: Objection, form. 16 MR. ANDERSON: Objection, form. 17 THE WITNESS: Well -- 18 BY MR. LAGOMARSINO: 19 Q. Let me rephrase. 20 In this situation, does choking Tashii 21 Farmer out have a legitimate law enforcement 22 objective? 23 MR. McNUTT: Same objection. 24 MR. ANDERSON: Objection, form. 25 THE WITNESS: I don't believe so.</p>	<p>1 A. Early 2000s. 2 Q. And who was that? 3 A. Just a suspect on a call. 4 Q. And who applied the LVNR? 5 A. One of the officers. 6 Q. Were you one of the officers present at the 7 scene? 8 A. I was. 9 Q. Was it you? 10 A. No. 11 Q. What happened with that suspect? 12 A. He -- both him and the officer went down to 13 a kneeling position, and he was taken into custody. 14 Q. Any other occasions? 15 A. Not that I can remember. 16 Q. In training, have you witnessed videos of 17 officers applying LVNRs, either in this department or 18 others, to suspects? 19 A. Yes. 20 Q. Approximately how many? 21 A. Over the course of 21 years, I couldn't 22 even give you a number. 23 Q. More than a hundred? 24 A. Between 50 and a hundred. 25 Q. Okay. Was this the worst application of a</p>
<p>1 BY MR. LAGOMARSINO: 2 Q. And later, Lopera says, "I started wailing 3 on the dude and then I rear-mounted and choked him 4 out." 5 Did he say that? 6 A. According to the body cam, yes. 7 Q. Would wailing on Tashii Farmer then rear 8 mounting and choking him out have a legitimate law 9 enforcement objective? 10 MR. McNUTT: Objection, form. 11 BY MR. LAGOMARSINO: 12 Q. In this case. 13 A. I don't believe so. 14 Q. Have you ever witnessed anybody apply an 15 LVNR outside of training? 16 A. Yes. 17 Q. And when did you witness that? 18 MR. McNUTT: I'm sorry, would you repeat 19 that. 20 MR. LAGOMARSINO: Sure. 21 BY MR. LAGOMARSINO: 22 Q. Outside of training, had you ever watched 23 somebody apply an LVNR? 24 A. Yes. 25 Q. Approximately when did you see that?</p>	<p>1 neck restraint you've ever seen, either on video or 2 live? 3 MR. McNUTT: Objection, form. 4 MR. ANDERSON: Objection, form. 5 THE WITNESS: In my opinion, it was not a 6 good application of force. 7 BY MR. LAGOMARSINO: 8 Q. Have you ever seen one that was worse? 9 MR. McNUTT: Objection, form. 10 MR. LAGOMARSINO: Strike that. 11 BY MR. LAGOMARSINO: 12 Q. As you sit here today, can you recall one 13 that was worse? 14 A. No. 15 Q. Did you believe that Lopera was giving 16 conflicting commands to Farmer? 17 A. Yes. 18 Q. Throughout, did you believe that his 19 commands made it impossible for Farmer to 20 appropriately respond to the commands? 21 MR. ANDERSON: Objection, form. 22 MR. McNUTT: Join. 23 THE WITNESS: Yes. 24 BY MR. LAGOMARSINO: 25 Q. Were you tasked as part of the FIT</p>

Detective Trevor Alsup - Vol. II - July 1, 2019
*** * * Videotaped Deposition * * ***

25 (Pages 276 to 279)

Page 276	Page 278
<p>1 investigation to evaluate Crumrine, Tran, or Flores' conduct?</p> <p>2 A. No.</p> <p>3 Q. How many times have you watched the video of the incident?</p> <p>4 A. A lot.</p> <p>5 Q. Have you played and paused in the frame-by-frame style many times?</p> <p>6 A. Yes.</p> <p>7 Q. And did you review the statements from the involved officers in this case?</p> <p>8 A. I did.</p> <p>9 Q. Did you also review the SOPs, certain SOPs?</p> <p>10 A. Certain policies, yes.</p> <p>11 Q. Which policies did you review?</p> <p>12 A. Mainly use of force.</p> <p>13 Q. Even though you were not provided with Lopera's statement, did you try to understand the environment that he was facing during this event?</p> <p>14 A. Yes.</p> <p>15 Q. Did you believe that Lopera's actions were appropriate in this case?</p> <p>16 A. No.</p> <p>17 MR. McNUTT: Objection, form.</p>	<p>1 BY MR. LAGOMARSINO:</p> <p>2 Q. Did you ever assess, based on your review of the video, that Lopera was ever in any danger of losing his life?</p> <p>3 A. Not in my opinion.</p> <p>4 Q. Based on your review of the video of both today and then the other times, did you ever believe that Tashii Farmer posed a threat to the general public, based on what you've seen?</p> <p>5 A. No.</p> <p>6 MR. LAGOMARSINO: All right. I'm going to just take five minutes, a restroom break, and then, we'll be done by like 2:30, or at least my questions will be done.</p> <p>7 THE VIDEOGRAPHER: The time is approximately 1:45 p.m. We are going off the record.</p> <p>8 (A recess was taken.)</p> <p>9 THE VIDEOGRAPHER: The time is approximately 1:54 p.m. We are back on the record.</p> <p>10 BY MR. LAGOMARSINO:</p> <p>11 Q. You understand, Detective, that you're still under oath?</p> <p>12 A. I do.</p> <p>13 Q. Now, when Farmer ran away from Lopera, he ran through a door that was clearly marked as an</p>
<p>1 BY MR. LAGOMARSINO:</p> <p>2 Q. Do you believe that his actions were judicious?</p> <p>3 A. No.</p> <p>4 Q. Do you believe that Lopera engaged in a thoughtful and a well-reasoned response?</p> <p>5 MR. McNUTT: Objection, form.</p> <p>6 MR. ANDERSON: Objection to form.</p> <p>7 THE WITNESS: No.</p> <p>8 BY MR. LAGOMARSINO:</p> <p>9 Q. Does Metro train that placing somebody in a neck restraint for longer than 10 or 20 seconds can cause death potentially?</p> <p>10 A. Well, Metro doesn't teach a neck restraint besides the LVNR, and with the LVNR, it's that you apply the LVNR until you gain compliance.</p> <p>11 Q. Metro teaches that if it's applied improperly, it could cause death, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Did you consider the use of the neck restraint that was used in this case deadly force?</p> <p>14 MR. McNUTT: Objection, form.</p> <p>15 MR. LAGOMARSINO: Let me rephrase.</p> <p>16 THE WITNESS: I believe that the amount of time that the neck restraint was held was excessive.</p>	<p>1 exit; is that correct?</p> <p>2 MR. McNUTT: Objection, form.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MR. LAGOMARSINO:</p> <p>5 Q. Does a tourist who appears -- strike that.</p> <p>6 Does a sweating tourist who runs through an exit door compel a police pursuit?</p> <p>7 A. It could. In this case, I don't believe so.</p> <p>8 Q. I believe in your prior deposition, you -- I'm not sure which one, but you testified that you would have taken a different tact than Lopera?</p> <p>9 A. Correct.</p> <p>10 Q. Maybe more of a contain strategy; is that correct?</p> <p>11 A. Correct.</p> <p>12 Q. How would you have done that?</p> <p>13 A. Utilize the police radio to try to gain containment around the area where the person ran.</p> <p>14 Q. Is somebody saying they're being followed a reason to detain that person?</p> <p>15 A. No.</p> <p>16 Q. Did Lopera's partner, Lif, feel that Farmer should have been detained?</p> <p>17 MR. ANDERSON: Objection, form.</p>

Detective Trever Alsup - Vol. II - July 1, 2019
*** * * Videotaped Deposition * * ***

27 (Pages 284 to 287)

Page 284	Page 286
<p>1 remained at the proper level of force with Tashii 2 Farmer?</p> <p>3 A. No.</p> <p>4 Q. Are you of the opinion that Officer Lopera 5 showed compassion and care about Farmer's well-being?</p> <p>6 MR. ANDERSON: Objection, form.</p> <p>7 MR. McNUTT: Objection, form.</p> <p>8 THE WITNESS: No.</p> <p>9 BY MR. LAGOMARSINO:</p> <p>10 Q. Did you ever assess how long it took for 11 the officers to start chest compressions on Farmer?</p> <p>12 A. I did initially at the time of the call. I 13 don't remember exactly what it was.</p> <p>14 Q. Minutes, correct?</p> <p>15 A. No. Once officers -- do you want me to 16 finish?</p> <p>17 Q. Yes.</p> <p>18 A. Once officers arrived, he was checked for a 19 pulse several times. As soon as an officer noticed 20 that he had no pulse and wasn't breathing, that's 21 when CPR was begun.</p> <p>22 Q. Was it Tran or Flores, or do you know 23 which, that said that Farmer appeared to be 24 unconscious when they arrived at the scene?</p> <p>25 A. I'd have to go back through and look to</p>	<p>1 TASER, which showed whether or not the circuit was 2 completed.</p> <p>3 BY MR. LAGOMARSINO:</p> <p>4 Q. And was it completed to a consistent 5 connection?</p> <p>6 A. It was either two or three times that it 7 showed that it was a completed circuit, and the other 8 ones were intermittent.</p> <p>9 Q. Is NMI evidence of a consistent connection 10 to the probes?</p> <p>11 A. Yes.</p> <p>12 Q. Do you believe that Tashii Farmer would 13 have spontaneously died had he not had any 14 interaction with Ken Lopera?</p> <p>15 MR. McNUTT: Objection, form.</p> <p>16 MR. ANDERSON: Join.</p> <p>17 THE WITNESS: I don't think there's any way 18 that I can answer that.</p> <p>19 BY MR. LAGOMARSINO:</p> <p>20 Q. Based on your review of the video, did 21 Tashii Farmer exhibit superhuman strength?</p> <p>22 A. No.</p> <p>23 Q. Did you undertake to download Tashii 24 Farmer's text messages?</p> <p>25 A. We did.</p>
<p style="text-align: center;">Page 285</p> <p>1 remember.</p> <p>2 Q. One of them said that, correct?</p> <p>3 A. Something to that effect, yes.</p> <p>4 Q. When an officer uses an LVNR to the point 5 of making a subject pass out, is that low level of 6 force or intermediate level of force at that time?</p> <p>7 A. Intermediate.</p> <p>8 Q. When Tashii was on the ground with his 9 hands up, did you consider that substantial 10 resistance?</p> <p>11 A. No.</p> <p>12 Q. When a subject says, "Yes, sir" and "I 13 will" in response to commands, is that a sign of 14 compliance?</p> <p>15 MR. ANDERSON: Objection, form.</p> <p>16 THE WITNESS: It can be.</p> <p>17 BY MR. LAGOMARSINO:</p> <p>18 Q. Going back to the TASER for a second, was 19 there evidence confirming that there was a 20 connection -- strike that.</p> <p>21 Going back to the TASER, was there evidence 22 confirming that there was a solid and consistent 23 connection through probe placement?</p> <p>24 MR. McNUTT: Compound.</p> <p>25 THE WITNESS: There was a download of the</p>	<p style="text-align: center;">Page 287</p> <p>1 Q. Was there any relevance of those text 2 messages to your investigation?</p> <p>3 A. Nothing significant that I remember. 4 There may have been references to drugs but 5 nothing that stood out.</p> <p>6 Q. Did -- strike that. 7 If Tashii Farmer had a long history of drug 8 use, would that be relevant to your investigation of 9 Lopera's conduct?</p> <p>10 A. No.</p> <p>11 Q. As you sit here today, do you recall any 12 text messages from Tashii's phone that indicate that 13 he actually received drugs the night of the incident?</p> <p>14 A. Not off the top of my head.</p> <p>15 Q. Did you ever see any evidence that 16 Officer Lif actually slipped and fell?</p> <p>17 A. No.</p> <p>18 Q. Did you put together a PowerPoint for the 19 fact-finding review?</p> <p>20 A. I did. 21 (Exhibit 17 was marked for 22 identification by the reporter.)</p> <p>23 MR. LAGOMARSINO: Which exhibit is this?</p> <p>24 THE REPORTER: 17.</p>

Detective Trever Alsup - Vol. II - July 1, 2019
* * * Videotaped Deposition * * *

Page 358

1 CERTIFICATE OF REPORTER

2 I, Cynthia K. DuRivage, a Certified Court

3 Reporter of the State of Nevada, do hereby certify:

4 That the foregoing proceedings were taken

5 before me at the time and place herein set forth;

6 that any witnesses in the foregoing proceedings,

7 prior to testifying, were duly sworn; that a record

8 of the proceedings was made by me using machine

9 shorthand which was thereafter transcribed under my

10 direction; that the foregoing transcript is a true

11 record of the testimony given.

12 I further certify I am neither financially

13 interested in the action nor a relative or employee

14 of any attorney or party to this action.

15 Reading and signing by the witness was

16 requested.

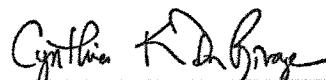
17 IN WITNESS WHEREOF, I have this date

18 subscribed my name.

19 Dated: July 16, 2019

20

21



22 CYNTHIA K. DU RIVAGE
CCR No. 451

23

24

25